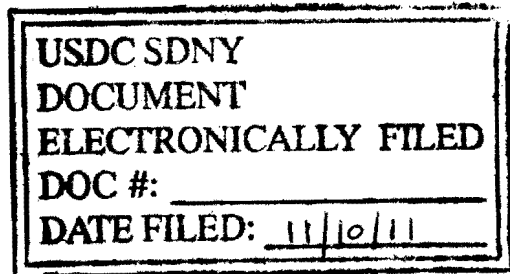


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



ECHOSTAR SATELLITE SERVICES
L.L.C.,

Plaintiff,

– against –

XSTREAMHD, LLC,

Defendants.

11 Civ. 2790 (TPG)

OPINION

Plaintiff EchoStar Satellite Services L.L.C. brought this action on April 26, 2011, alleging that defendant XStreamHD, LLC owes unpaid invoices and liquidated damages arising out of an agreement to lease segment (bandwidth) capacity on a satellite. Plaintiff states that defendant owes \$2,684,513.32 for unpaid invoices, liquidated damages, and prejudgment interest, along with \$22,649.95 in attorneys' fees. Defendant has not responded to the complaint.

Plaintiff moves for default judgment.

The court may enter a default judgment when a party against whom affirmative relief is sought has "failed to plea or otherwise defend." Fed. R. Civ. P. 55. Where defendant was served but failed to answer and the time to do so has expired, plaintiff is entitled to a default judgment. Fed. R. Civ. P. 12(a)(1); United States v. Wagner, 235 F. Supp. 854, 855-56 (S.D.N.Y. 1964).

Plaintiff served defendant with a copy of the summons and complaint on May 3, 2011. Proof of service was filed with the court on May 31, 2011. Defendant has not entered a notice of appearance or filed an answer or

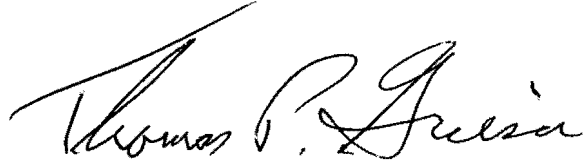
otherwise moved with respect to the complaint, and the time for it to do so has passed. On July 26, 2011, the Clerk of Court issued a Certificate of Default.

Plaintiff's motion for a default judgment against defendant is granted.

Judgment should be entered in the amount of \$2,707,163.27.

SO ORDERED.

Dated: New York, New York
November 10, 2011

A handwritten signature in black ink, reading "Thomas P. Griesa". The signature is written in a cursive style with a large, sweeping initial 'T'.

Thomas P. Griesa
U.S. District Judge